

# **DISASTER MANUAL**

**FOOD & NUTRITION SERVICE**

**FOOD DISTRIBUTION DIVISION**



August 2004

United States Department of Agriculture  
Food and Nutrition Service  
3101 Park Center Drive  
Alexandria, VA 22302

[www.fns.usda.gov/fdd](http://www.fns.usda.gov/fdd)

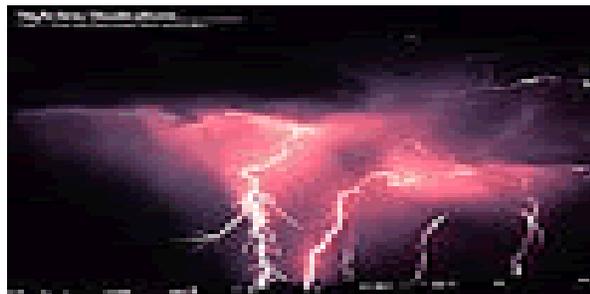
## Table of Contents

<b>TABLE OF CONTENTS .....</b>	<b>1</b>
<b>FOOD AND NUTRITION SERVICE (FNS) COMMODITY PROGRAM DISASTER MANUAL .....</b>	<b>2</b>
<b>PART I: AN OVERVIEW .....</b>	<b>2</b>
<i>A. Types of Disasters (Presidentially Declared vs. Situations of Distress) .....</i>	<i>2</i>
<i>B. FNS Provides Only Food Support.....</i>	<i>4</i>
<i>C. FNS’ First Line of Defense—Disaster Food Stamps .....</i>	<i>4</i>
<i>D. Laws and Regulations Governing Commodity Donations.....</i>	<i>5</i>
<i>E. Funding Sources for Commodity Donations.....</i>	<i>5</i>
<i>F. FNS Programs From Which Commodities May Be Used .....</i>	<i>6</i>
<i>G. Sources of Existing Commodity Inventories .....</i>	<i>7</i>
<i>H. Emergency Procurements.....</i>	<i>8</i>
<b>PART II: PREPARING FOR A PRESIDENTIALLY DECLARED DISASTER OR A SITUATION OF DISTRESS .....</b>	<b>9</b>
<i>A. FNS Headquarters Preparation.....</i>	<i>9</i>
<i>B. FNS Regional Office Preparation.....</i>	<i>10</i>
<i>C. State Distributing Agency Preparation.....</i>	<i>10</i>
<b>PART III: THE COMMODITY PROGRAM DISASTER RESPONSE.....</b>	<b>12</b>
<i>A. Responding to Information Requests from the Media/Public.....</i>	<i>12</i>
<i>B. Congregate Feeding vs. Household Distribution—An Overview.....</i>	<i>12</i>
<i>C. Congregate Feeding During Disasters and Situations of Distress .....</i>	<i>14</i>
<i>D. Household Distribution During Disasters and Situations of Distress .....</i>	<i>15</i>
<b>PART IV: AFTER THE DISASTER OR SITUATION OF DISTRESS... ..</b>	<b>18</b>
<i>A. Replacement of Donated Food.....</i>	<i>18</i>
<i>B. Final Summary Report to FNS.....</i>	<i>18</i>
<i>C. State Distributing Agency Record Keeping Requirements.....</i>	<i>18</i>
<i>Attachment 1 Disaster Questions and Answers .....</i>	<i>20</i>
<i>Attachment 2 Food Distribution Programs Disaster Flowchart (1 of 2) .....</i>	<i>24</i>
<i>Attachment 2 Food Distribution Programs Disaster Flowchart (2 of 2) .....</i>	<i>25</i>
<i>Attachment 3 The FEMA Federal Response Plan .....</i>	<i>26</i>
<i>Attachment 4 Regulations: 7CFR 250.3, 250.42, 250.44 .....</i>	<i>36</i>

# **FOOD AND NUTRITION SERVICE (FNS)** **COMMODITY PROGRAM DISASTER MANUAL**

## **PART I: AN OVERVIEW**

This manual contains important information for persons in FNS Headquarters, FNS Regional Offices, and State Distributing Agencies who are charged with the responsibility of providing USDA donated commodities to disaster relief organizations in the event of a disaster or a situation of distress.



The manual provides practical steps for distributing USDA donated commodities in response to disasters and situations of distress. It does not address non-commodity food assistance, such as disaster food stamps and private donations, although it recognizes that coordination is needed between these types of assistance. Part I of this manual provides a general overview of the commodity response. Part II discusses preparing for this response ahead of time. Part III addresses the actual steps FNS takes when asked to donate commodities. Part IV addresses commodity replacement and reporting requirements.

The American Red Cross is the primary organization responsible for coordinating feeding in a State where a disaster occurs. Other recognized organizations equipped to prepare or serve meals to disaster victims, such as the Salvation Army, religious-based organizations, fraternal orders, etc., may also coordinate disaster feeding. All of these organizations are eligible to receive USDA-donated commodities. Depending on the severity of the disaster, and other food resources available to the responding agency, **FNS may or may not be asked to provide disaster assistance.**

---

### **A. Types of Disasters (Presidentially Declared vs. Situations of Distress)**

There are two types of disasters that FNS may legally respond to: 1) Presidential declared disasters and 2) situations of distress.

- 1) **Presidentially Declared Disasters:** When the Governor of the affected State determines a need for Federal disaster assistance, a request for assistance is addressed to the President. When the President determines, based on the Federal Emergency Management Agency's (FEMA) evaluation and recommendation, that a State requires Federal assistance, a formal Presidential disaster declaration is made and resources of the entire Federal government become available.

When FEMA coordinates disaster relief efforts, FNS is the designated primary agency for Emergency Support Function 11 (ESF-11) (Food) as outlined in the Federal Response Plan. The details of how FNS fits into the Federal Response Plan are described in Attachment 3.

If FNS determines that low-income households are unable to purchase adequate amounts of nutritious food, FNS makes disaster food stamps available. If disaster food stamps are not practical, disaster organizations may be eligible to receive commodities for congregate meal service or household distribution in accordance with food distribution program regulations at 7 CFR 250.43 and 250.44 respectively.

In a Presidentially declared disaster, as outlined in Federal regulations, State Distributing Agencies have the authority to release commodities for congregate feeding for as long as they are needed and FNS guarantees replacement of commodities used.

- 2) **Situations of Distress:** FNS uses the term “situation of distress” when a natural catastrophe or other event has not been declared by the President to be a disaster but which, in the judgment of the State Distributing Agency or FNS, warrants the use of USDA-donated foods for congregate feeding or household distribution. A situation of distress could arise from a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other natural catastrophe. There are also situations, **other than natural catastrophes**, such as strikes, explosions, etc., that, in the judgement of FNS-Headquarters may warrant the use of donated foods. FNS has the authority to release donated foods for both congregate feeding and household distribution. Donated foods can be provided under this authorization to provide relief prior to a Presidential declaration, at which point the situation of distress is redefined as a disaster.

In accordance with 7 CFR 250.44, FNS will replace commodities from State Distributing Agency and local recipient agency inventories that are used to assist in situations of distress, **to the extent that funds for replacement are available**. State Distributing Agencies must submit requests to FNS for replacement of donated foods used in these emergencies within 30 days of the termination of assistance. However, since funds for replacement of donated foods used in situations of distress are limited, State Distributing Agencies that intend to submit a request for replacement of such foods are encouraged to do so as soon as possible. It is recommended they do so upon notifying the FNS Regional Office within 24 hours of approving an application for assistance.

In addition, State Distributing Agencies may approve the use of commodities for congregate feeding in situations of distress **only** if the situation is a **natural event**, and for **only up to 30 days**. State Distributing Agencies must request approval from FNS Headquarters, through the Regional Office, to exceed 30 days.

A comparison of some key regulatory differences between Presidentially declared disasters and situations of distress follows:

### Key Regulatory Differences Between Disasters and Situations of Distress

Disasters	Situations of Distress
<ul style="list-style-type: none"> <li>Requires a Presidential declaration that federal assistance is warranted.</li> </ul>	<ul style="list-style-type: none"> <li>No Presidential declaration is required.</li> </ul>
<ul style="list-style-type: none"> <li>Guaranteed replacement of commodities by FNS. *</li> </ul>	<ul style="list-style-type: none"> <li>Replacement of commodities by FNS to the extent that funds for replacement are available.*</li> </ul>
<ul style="list-style-type: none"> <li>State Distributing Agency has authority to release commodities for congregate feeding for as long as they are needed.</li> </ul>	<ul style="list-style-type: none"> <li>State Distributing Agency has the authority to release commodities for congregate feeding, but <b>only</b> if the situation is a natural event, and <b>only</b> for up to 30 days. If not a natural event, FNS Headquarters must approve and determine duration of assistance.</li> </ul>

\* Replacement may be made through entitlement credit to the applicable program.

## B. FNS Provides Only Food Support

FNS provides only food during situations of distress and disasters. In disasters, when the FEMA coordinates relief efforts, FNS is the designated primary agency in the Federal Response Plan for ESF-11 (Food). The question occasionally arises as to whether FNS has responsibility to supply water under its function. Although certainly related and vital, water is an ESF-3 function (Public Works and Engineering). In a disaster, therefore, requests for water should be directed to the representative of the agency designated under ESF-3. More detail about FEMA and the Federal Emergency Response Plan is outlined in the Attachments.

## C. FNS' First Line of Defense—Disaster Food Stamps

When asked to provide disaster assistance, FNS always attempts to provide disaster benefits through the Food Stamp Program first, before donating commodities. It is logistically easier for FNS to provide disaster food stamps in areas where retail food stores are still operating, than it is to identify and arrange for the transportation of commodities.

In these circumstances, disaster food stamps are issued if the ongoing Food Stamp Program is unable to handle the increased number of households needing assistance.

Even if a disaster does not disrupt the retail food system, FNS may be asked to donate USDA commodities. State Distributing Agencies are responsible for oversight of the distribution of commodities to disaster organizations and their use. Most disaster organizations prefer commodities in larger pack sizes to facilitate congregate feeding. Occasionally however, smaller sized packages of commodities are requested when the disaster organization intends to distribute food to households for preparation and consumption at home. All requests for household distribution require FNS Headquarters approval prior to State Distributing Agencies releasing commodities for this purpose.

---

## D. Laws and Regulations Governing Commodity Donations

The following laws and regulations govern the use of commodities during disasters:

- ❖ Sections 412 and 413(b) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* authorize the Secretary of Agriculture to distribute surplus commodities and to use Section 32 funds from the *Act of August 24, 1935* to purchase food necessary to provide adequate supplies for use in any area of the United States in the event of a disaster or situation of distress.
- ❖ Section 416 of the *Agricultural Act of 1949* also authorizes the Secretary of Agriculture to donate surplus commodities to disaster victims, subject to certain requirements.
- ❖ Section 4(a) of the *Agriculture and Consumer Protection Act of 1973* also authorizes the Secretary of Agriculture to donate surplus commodities to disaster victims, subject to certain requirements.
- ❖ Food Distribution Program regulations at 7 CFR 250.43 (disasters) and 250.44 (situations of distress) contain language implementing the above statutory authorities.

---

## E. Funding Sources for Commodity Donations

Commodity replacements and emergency purchases are funded from the following sources:

Section 4(a): A limited amount of funds appropriated under Section 4(a) of the *Agriculture and Consumer Protection Act of 1973* are allocated yearly to FNS for disaster assistance. The Food and Nutrition Service Disaster Coordinator authorizes use of these funds in emergencies and situations of distress.

Section 32: The Secretary of Agriculture may also authorize Section 32, contingency funds, for the purchase of commodities to be used for disaster/emergency feeding.

## F. FNS Programs From Which Commodities May Be Used

Federal, State, and local inventories of commodities from any of the following USDA domestic nutrition assistance programs may be used in a Presidentially declared disaster or situation of distress:

<b>Program Sources of Commodities for Disasters and Situations of Distress</b>	
• National School Lunch Program	• Summer Camps
• Child and Adult Care Food Program	• Food Distribution Program on Indian Reservations
• Summer Food Service Program	• Commodity Supplemental Food Program
• Nutrition Services Incentive Program	• The Emergency Food Assistance Program
• Charitable Institutions	

The specific program from which commodities are taken will depend on the needs of the disaster organization, the scale of the disaster, accessible inventories, and available funding. **If available, State Distributing Agencies should try to use commodities provided through the National School Lunch Program whenever possible. These are easier for disaster feeding organizations to use in preparing congregate meals, and they are easier for FNS to replace or reimburse.** FNS will do its best to make timely replacements in order to prevent disruption in ongoing service to the programs from which commodities are taken. It should be remembered that, while replacement is guaranteed in a Presidentially declared disaster, replacement is not guaranteed in situations of distress.

---

## G. Sources of Existing Commodity Inventories

Commodities may be taken from local, state, and federal inventories.



- ❖ **Local Inventories:** These are usually the first sources that disaster organizations turn to when they want donations of USDA commodities. Inventories from school kitchens and school district warehouses located close to the emergency are most often used for congregate feeding. Other local inventories include food purchased for TEFAP and CSFP and are more appropriate when household distribution is approved by FNS.
- ❖ **State Inventories:** If sufficient food is not available locally, State Distributing Agencies sometimes provide inventories from their State-level warehouses to the affected area for use by disaster organizations. If the State Distributing Agency does not have adequate inventories, it sometimes requests commodities from the inventories of other States. When two State agencies involved are in the same FNS Region, the Regional Office acts as the liaison between the two. If food must be transported between States in different FNS Regions, then the FNS Regional Office in which the emergency occurred, or FNS Headquarters, may act as liaison.
- ❖ **Federal (USDA) Inventories:** Federal inventories of commodities purchased for the Commodity Supplemental Food Program and Food Distribution Program on Indian Reservations are maintained by USDA in Carthage, Missouri and Albuquerque, New Mexico. Items such as canned meats, fruits, juices, and vegetables are stored there. In addition, food purchased for the National School Lunch Program is sometimes placed in Federal storage for later distribution. Depending on inventory levels and program needs, some food from these Federal inventories may be immediately available for disaster feeding.
- ❖ **Rapid Food Response System:** This new initiative, sponsored by FNS, is being established through a Memoranda of Understanding (MOU). The goal of the initiative is to supplement, not replace, existing disaster feeding efforts by making a nutritionally balanced commodity offering available for congregate feeding during Presidentially declared disasters. The offering contains five basic categories of USDA commodity foods that can be used to supplement existing disaster feeding efforts. Under the terms of the MOU, seven States (NY, PA, NC, OH, OK, CO, and CA) will make their currently existing inventory available to any State nationwide. The FNS Regional Office in which the disaster occurs will act as gatekeeper to approve requests from State Distributing Agencies within its region to activate the Rapid Food Response System.

## H. Emergency Procurements

The Federal government may make emergency procurements of product when existing commodity inventories at the local, State, or Federal level are inadequate:

- ❖ **USDA Procurement:** If the scope of a disaster creates a need for food relief in excess of what can be provided by existing inventories, FNS Headquarters works with FNS Regional Offices and State agencies to authorize emergency purchases of commodities and ships them into affected areas in a timely manner. Emergency purchases are most often made when infant formula is needed. FNS authorizes the Agricultural Marketing Service or the Farm Service Agency (the two agencies responsible for procuring all of FNS' commodities on an ongoing basis) to make the purchases using FNS funds.
- ❖ **Procurement by Other Federal Agencies:** The General Services Agency and the Department of Defense, Defense Supply Center Philadelphia also coordinate purchases for FNS.
  - The General Services Agency is authorized to coordinate purchases of food for off shore disaster feeding. Quantities are usually limited and are often purchased locally.
  - The Department of Defense has the authority to negotiate emergency purchases for direct shipment to disaster areas through its Defense Supply Center Philadelphia.

These purchases are not common, and are only made with approval of FNS Headquarters, and with the concurrence of the Agricultural Marketing Service and/or Farm Service Agency contracting offices.

## **Part II: PREPARING FOR A PRESIDENTIALLY DECLARED DISASTER OR A SITUATION OF DISTRESS**

It is important for FNS Headquarters (Food Distribution Division), FNS Regional Offices, and State Distributing Agencies to plan for a disaster, or situation of distress, well before it occurs. Preparation is critical to make the actual response process flow smoothly in the stressful climate of an actual disaster or situation of distress. This preparation encompasses both long term and short term planning. Long term planning refers to more generic and theoretical preparation, before an emergency ever arises. Short term planning refers to situations where there is notice that an emergency is impending, such as a reliable prediction of a hurricane's landfall several days in advance. Plans should be reviewed and updated for accuracy at least annually.

Below are the steps that FNS Headquarters, FNS Regional Offices, and State Distributing Agencies should follow to effectively prepare for a disaster.

---

### **A. FNS Headquarters Preparation**

- 1) Identify and establish a relationship with the FNS Agency Disaster Coordinator.
- 2) Establish and maintain an Emergency Contact List with back-up contacts for key USDA commodity staff at FNS Headquarters, FNS Regional Offices, the Agricultural Marketing Service, and the Kansas City Commodity Office. The list must include Continuity of Operations Plan (COOP) coordinators, as well as disaster coordinators and media coordinators. Contacts and backups must have the authority to make quick decisions that expedite requests for commodity food and transportation. Contact information should include work, home, cell phone and fax numbers. The list should be updated annually. This list, which will be available to key USDA staff via the FNS Intranet, should be printed out in hard copy each time it is updated so that its information is available 24 hours a day, even during power outages.
- 3) Establish and periodically update the procedures for internal reporting within FNS. In doing so, disaster coordinators and key contacts for media inquiries at the FNS Headquarters and Regional Office levels must be consulted.
- 4) When a disaster or situation of distress occurs, or can be anticipated, require the affected Regional Offices to survey their State Distributing Agencies to determine the types, quantities, and location of commodities that disaster organizations are likely to be able to use or distribute. This will facilitate responding to requests for food when they are received.
- 5) Stay familiar with the necessary regulations, policies, and procedures related to commodity feeding during disasters and situations of distress.

---

## **B. FNS Regional Office Preparation**

- 1) Identify and establish a relationship with the FNS Regional Office Disaster Coordinator.
- 2) Maintain a current list of your Regional Office Emergency Contacts and provide to FNS Headquarters. Keep copies of the Emergency Contact List received from the Food Distribution Division in FNS Headquarters readily available.
- 3) Provide your State Distributing Agency staffs with updated copies of your Regional Office Emergency Contacts that includes work, home, cell phone, and fax numbers and e-mail addresses to ensure contact availability 24 hours a day. This information should be updated annually.
- 4) Establish internal reporting procedures. Coordinate the procedures with your Regional Disaster Coordinator and Regional contact person for media inquiries.
- 5) Maintain a current Regional list of essential State Distributing Agency personnel and keep them apprised of the procedures, policies, and regulations for handling disasters.
- 6) When a situation of distress or disaster occurs or is anticipated, contact your State Distributing Agencies to determine the types, quantities and location of commodities that disaster organizations are likely to be able to use or distribute. This will facilitate responding to requests for food when they are received.
- 7) Stay familiar with the regulations, policies, and procedures related to commodity feeding during disasters and situations of distress.

---

## **C. State Distributing Agency Preparation**

- 1) Develop a relationship with your State Emergency Management Agency.
- 2) Identify the primary disaster organization responsible for coordinating congregate feeding in your State and how to contact them. This will likely be the Red Cross. The Salvation Army and other local organizations may also be called on in a disaster situation. Those agencies need to know who to contact in the State Distributing Agency and what types of assistance, food, etc., are available. Advise them of what you can and cannot do and of the reporting requirements once commodities are provided.

- 3) Establish and maintain a list of Emergency Contacts at disaster organizations, TEFAP and government emergency agencies at the State level and school district officials at the local level. The list should include work, home, cell phone numbers, fax numbers as well as e-mail addresses so contacts can be reached 24 hours a day.
- 4) Provide the list to the Regional Office, State Distributing Agency disaster coordinator and other essential State personnel as necessary. This information should be updated annually.
- 5) Establish internal reporting procedures. Coordinate procedures with State Disaster Coordinator and Information Office. Determine who will be the contact person for media inquiries.
- 6) Stay familiar with the regulations, policies, and procedures regarding disasters and situations of distress.
- 7) Periodically remind your local agencies of the regulatory requirements to: 1) maintain meal counts during the emergency, 2) keep a list of USDA commodities distributed to disaster relief organizations and, 3) report this information as soon as possible to the State Distributing Agency, which must follow post-disaster reporting requirements to FNS (submitting the *FNS 292 Report* to the Regional Office within 45 days of termination of the emergency assistance).
- 8) Consider past history and determine what types of disasters are more likely to occur within the State (i.e. floods, snow storms, tornados, earthquakes). Obtain information from the State Emergency Management Agency about the likely assistance requirements that each type of disaster may create.



## PART III: THE COMMODITY PROGRAM DISASTER RESPONSE

This section describes the process FNS follows once a request is made by a disaster organization, through its State Distributing Agency, to utilize donated commodities in a situation of distress or Presidentially declared disaster.

---

### A. Responding to Information Requests from the Media/Public

A situation of distress or Presidentially declared disaster generates interest and requests for information from parties and individuals aside from those involved in the response.

All such requests for information must be referred to the Regional Office of Public Affairs. The role of the Regional Office of Public Affairs is to provide accurate, consistent, timely, and easy-to-understand information to the public about emergency food assistance. The Public Affairs staff works together with State and/or local public information offices to coordinate the release of information to the public, and also serves as the liaison with the Federal Emergency Management Agency (FEMA) Public Information staff. Unless prior authorization has been obtained otherwise, all media inquiries must be referred to the Regional Office of Public Affairs.



---

### B. Congregate Feeding vs. Household Distribution—An Overview

Disaster organizations use two primary methods to feed people in response to a disaster or situation of distress: congregate feeding and household distribution of food.

- ❖ **Congregate Feeding:** Congregate feeding is the most common form of food assistance provided during disasters or situations of distress. In congregate feeding, the disaster organization prepares meals in large quantities and serves them cafeteria-style in a central location. To expedite preparation, disaster organizations generally prefer foods in institutional size packages, such as #10 cans. Such commodities are usually available from existing State/local agency inventories of USDA food purchased for child nutrition programs, such as the National School Lunch Program. School food inventory levels vary by time of year (lower as the end of the school year approaches), which may have an effect on what types of commodities are available.

If congregate feeding is being provided as a result of a Presidentially declared disaster, the State Distributing Agency has authority to immediately make State/local agency stocks of USDA-donated commodities available **without prior FNS approval**.

For situations of distress caused by a **natural** event, the State Distributing Agency has authority to make commodities available for congregate feeding for a period of up to 30 days without prior FNS approval. The State Distributing Agency must request approval from FNS Headquarters, through the Regional Office, to exceed 30 days.

When a situation of distress is **not** caused by a natural event, **FNS Headquarters must approve** initiation of commodity assistance and its duration.

- ❖ **Household Distribution:** When conditions warrant, the disaster organization may distribute commodities in smaller packages, such as #300 cans, in limited quantities to individual households to take home for preparation and consumption. Such commodities are usually available from existing State/local agency inventories of food purchased for the Emergency Food Assistance Program, the Commodity Supplemental Food Program, or the Food Distribution Program on Indian Reservations.

Household distribution of commodities is seldom invoked because FNS primarily addresses household food needs during disasters by issuing food stamps. Commodities and disaster food stamps may be distributed in a given disaster area simultaneously. However, the same household may not benefit from both forms of assistance. Therefore, **FNS must provide prior approval** for household distribution of commodities and determine the duration. This is true for both a Presidentially declared disaster and a situation of distress.

A comparison of the key differences between congregate feeding and household distribution is addressed in the table below:

**Differences Between Congregate Feeding and Household Distribution  
for both Disasters and Situations of Distress**

Congregate Feeding	Household Distribution
<b>In Presidentially Declared Disasters:</b>	
<ul style="list-style-type: none"> <li>• State Distributing Agency approves and determines the duration of feeding.</li> <li>• FNS guarantees replacement.</li> </ul>	<ul style="list-style-type: none"> <li>• FNS approves and determines duration.</li> <li>• FNS guarantees replacement.</li> </ul>
<b>In Situations of Distress:</b>	
<ul style="list-style-type: none"> <li>• State Distributing Agency can approve for up to 30 days duration <b>only</b> if the emergency results from a natural event. If <b>not</b> the result of a natural event, FNS approves and determines duration.</li> <li>• FNS replaces only to the extent that funds for replacement are available.</li> </ul>	<ul style="list-style-type: none"> <li>• FNS approves and determines duration.</li> <li>• FNS replaces <b>only</b> to the extent that funds for replacement are available.</li> </ul>

### C. Congregate Feeding During Disasters and Situations of Distress

When a disaster organization wishes to use USDA commodities for congregate feeding, it must submit an application to the State Distributing Agency for review. As noted in the previous table, whether the State Distributing Agency, or FNS, is responsible for approving the application will depend on whether there is a Presidentially declared disaster or a situation of distress.



- ❖ **Applications for Congregate Feeding Submitted to State Distributing Agencies By Disaster Organizations:** The initial application by a disaster organization for the receipt and use of commodities for congregate feeding, as a result of a Presidentially declared disaster or situation of distress, is addressed at 250.43(b)(2) and 250.44(b)(2). Applications for the receipt and distribution of donated foods are submitted by the disaster organization to the State Distributing Agency in writing if circumstances permit or, if not, confirmed in writing in a timely manner. Applications must, to the extent possible, include the following:

❖ Required Disaster Application Information
<ul style="list-style-type: none"> <li>• A description of the disaster or situation of distress.</li> <li>• The number of people requiring meals.</li> <li>• The period of time for which meals are being requested</li> <li>• The quantity and types of food needed.</li> </ul>

Additionally, disaster organizations must report to the State Distributing Agency the number and location of sites providing congregate meal services as such sites are established. Therefore, it is suggested that the application reference this requirement.

- ❖ **Approval of Congregate Feeding—Presidentially Declared Disasters:** When a disaster is Presidentially declared, the State Distributing Agency is responsible for reviewing and approving the application, and determining the duration of commodity donations for congregate feeding. In doing so, the State Distributing Agency must take into consideration the magnitude of the situation. Within 24 hours of approving an application for congregate feeding, the State Distributing Agency must report the information contained in the application to the FNS Regional Office.

- ❖ **Approval of Congregate Feeding—Situations of Distress:** In a situation of distress, the State Distributing Agency may decide to approve commodity donations for congregate feeding for a maximum of 30 days. Within 24 hours of approving an application for congregate feeding, the State Distributing Agency must report the information contained in the application to the FNS Regional Office. The FNS Regional Office does not need to forward this to FNS Headquarters, but it will maintain the information forwarded to it on file.

When the initial request for congregate feeding is for less than 30 days and then is extended to the 30 day limit, the State Distributing Agency will notify the FNS Regional Office of this extension. The State Distributing Agency shall request approval from FNS Headquarters, through the FNS Regional Office, to exceed 30 days. FNS Headquarters will determine the duration of such donations, taking into consideration the magnitude of the situation. The FNS Regional Office will notify the State Distributing Agency of the request's approval and duration, or its denial.

In a situation of distress that is **not** the result of a natural event, as described in Section 250.3(a) of the Federal Regulations, the State Distributing Agency will send the disaster relief organization's application to the FNS Regional Office to forward to FNS Headquarters. FNS Headquarters will determine the initial duration of the donation, up to the 30 day limit, as well as any extension beyond 30 days. All parties shall be notified of the decision. The initial determination about the duration of commodity donations may be revised as developing circumstances dictate.

All transactions related to these requests, notifications and approvals shall be documented and the documents maintained in each respective office. The relief organization must maintain a copy of the application that it submits to the State Distributing Agency, plus the written approval it receives, for 3 years plus the current year as required by Food Distribution Program regulations at 7 CFR 250.16(b).

---

## D. Household Distribution During Disasters and Situations of Distress

When a disaster organization determines it needs to distribute USDA commodities to households in response to a disaster or situation of distress, it must submit an application to the State Distributing Agency for review.

- ❖ **Applications for Household Distribution Submitted to State Distributing Agencies by Disaster Organizations:** The initial application by disaster relief organizations for the receipt and distribution of foods to households is addressed at 250.43(c)(2) and 250.44(c)(2) respectively.



Applications for the receipt and distribution of USDA commodities to households are submitted by the disaster organization to the State Distributing Agency in writing if circumstances permit or, if not, confirmed in writing in a timely manner. Applications must, to the extent possible, include the information outlined in the table below. The information required is the same for Presidentially declared disasters and situations of distress except that, information on the method(s) of distribution available in the affected area is required for a disaster but not for a situation of distress.

**Application Information Requirements For Household Distribution  
During Disasters and Situations of Distress**

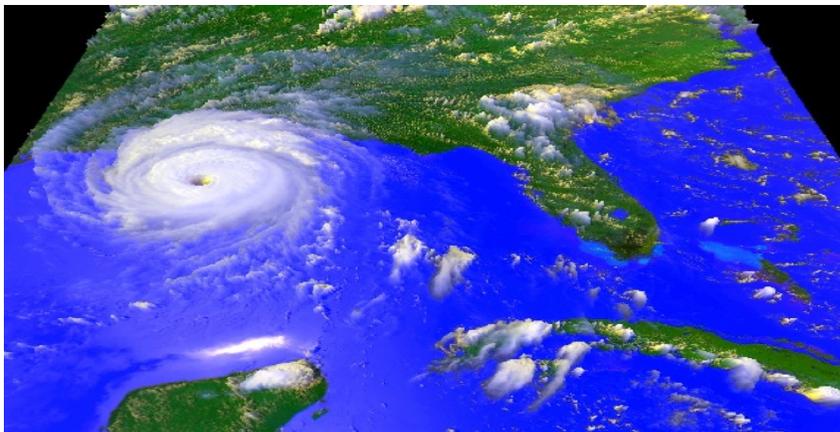
- A description of the disaster or situation of distress
- Identification of specific areas which would be served
- Number of households affected who are expected to participate
- An explanation as to why household distribution is warranted
- The anticipated distribution period
- The quantity and types of food needed
- Assurance household will not receive both donated foods and disaster food stamps
- A description of the system to prevent dual participation
- Method(s) of distribution available (*required for Presidentially declared disaster only*)
- Additionally, disaster organizations must report to the State Distributing Agency the number and location of sites providing congregate meal services as such sites are established. Therefore, it is suggested that the application include this information to the extent possible.

- ❖ **Approval of Household Distribution—For Both Presidentially Declared Disasters and Situations of Distress:** The State Distributing Agency must submit the application to the appropriate FNS Regional Office. The Regional Office will, in turn, submit the application to FNS-Headquarters for approval. If approved, FNS Headquarters will determine the duration of the donation, taking into consideration the magnitude of the situation and other appropriate factors. FNS Headquarters will relay its decision to the FNS Regional Office which will, in turn, inform the State Distributing Agency of the decision.
- ❖ **Collection of Household Information by Disaster Organizations in Areas Receiving Disaster Food Stamps:** If a disaster relief organization is distributing commodities to households in an area where **disaster food stamps** are also being issued, the organization must collect certain additional information, as itemized at 7 CFR 250.43(c)(3) and 250.44(c)(3) from each household receiving the commodities. The information that must be collected is as follows:

- Name of household member applying for assistance
- Address
- Number of household members
- A statement signed by the household certifying that the household:
  - Is in need of food assistance
  - Understands that misrepresentation of need, and the sale or exchange of donated food are prohibited and could result in a fine, imprisonment, or both
  - Is not residing in a shelter which provides food assistance, and
  - Is not receiving disaster food stamp benefits.

The State Distributing Agency will prescribe the format that the relief organization will follow when compiling and submitting this information to the State. The State Distributing Agency does not need to forward this information to the FNS Regional Office, but will maintain the information on file for three years plus the current year as required by Food Distribution Program regulations at 7 CFR 250.16(b).

If the disaster relief organization is an agency of the State government, the State Distributing Agency has the discretion to direct that this information be maintained by the organization distributing the commodities, as provided in Food Distribution Program regulations at 7 CFR 250.44(c)(3).



---

## PART IV: AFTER THE DISASTER OR SITUATION OF DISTRESS...

---

### A. Replacement of Donated Food

State Distributing Agencies must submit requests for replacement of commodities used in disasters or situations of distress in writing to FNS Headquarters, via the FNS Regional Office, within 30 days of the termination of the assistance. Because funds for replacement of commodities used in situations of distress are limited, State Distributing Agencies are encouraged to notify FNS of their intent to request replacement as soon as possible.

**(Remember that a request for commodity replacement is required before the final summary report is due to FNS as indicated below.)**

---

### B. Final Summary Report to FNS

The State Distributing Agency must provide a summary report to the FNS Regional Office within 45 days of the termination of relief operations following a disaster or situation of distress. The State Distributing Agency must complete and submit Form FNS-292, *Report of Coupon Issuance and Commodity Distribution for Disaster Relief*.

---

### C. State Distributing Agency Record Keeping Requirements

All applications, extension requests and approvals from relief organizations, distributing agencies and FNS must be initially submitted or responded to in writing if circumstances permit, or confirmed in writing in a timely manner. All such records must be maintained in the appropriate offices for 3 years plus the current year, as required by Food Distribution Program regulations at 7 CFR 250.16(b).

- ❖ **The FNS-292:** State Distributing Agencies will provide a summary report to the FNS Regional Office using Form FNS-292, *Report of Coupon Issuance and Commodity Distribution for Disaster Relief*.
- ❖ In order to receive commodity replacement, the State Distributing Agency must report accurate amounts and values of commodities distributed during a disaster or situation of distress. To do this, the State Distributing Agency will need to identify the commodities taken from the State or contracted warehouse each time they are withdrawn and document the quantity and value of these commodities.
- ❖ In addition, the State Distributing Agency must gather the quantity and values of commodities taken from all local agencies, combine those with the amounts and values withdrawn from State or contracted warehouses, and record the information as a summary attached to the Form FNS-292.

❖ **Recordkeeping in “Single Inventory” Management Systems:**

- ❖ Special documentation is required when a Recipient Agency which practices “single inventory” management (commingling of purchased and commodity foods) uses foods for disaster feeding, and the Recipient Agency requests commodity replacement.
- ❖ The State Distributing Agency must acquire documentation that either:
  - Confirms that the foods used for the disaster were donated commodities or
  - Confirms the receipt of the same types of commodities (through consignee receipts or other records) by the Recipient Agency, during the year preceding the onset of the disaster feeding , as those foods used for disaster feeding.

## **Attachment 1 Disaster Questions and Answers**

### **1. What role does USDA/FNS play in response to disaster situations?**

There is a Federal Response Plan (FRP) that outlines the process for coordinating delivery of Federal assistance and resources to assist states and localities overwhelmed by a major disaster or emergency. The FRP supports implementation of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as well as individual agency statutory authorities. USDA/FNS is the primary federal agency tasked with providing food relief (Emergency Support Function 11) under the FRP.

7 CFR 250.43 and 250.44 contain the regulations authorizing the Secretary of Agriculture to make commodities available to victims of disasters and situations of distress.

### **2. Is there any difference in the response that the State Distributing Agency may make regarding a disaster as opposed to a situation of distress?**

When the President issues a disaster declaration, the State Distributing Agency may authorize the use of commodities for congregate feeding for the duration, with notice to the FNS Regional Office within 24 hours of doing so.

When there is no presidential declaration, and a situation of distress arises from a natural catastrophe, the State Distributing Agency may authorize the use of commodities for up to 30 days, with notice to the FNS Regional Office within 24 hours of doing so. FNS Headquarters approval is required to exceed 30 days.

If a situation of distress arises from circumstances other than a natural catastrophe, or should the State Distributing Agency want to release commodities for distribution to households for home preparation, the State Distributing Agency must receive prior approval from FNS Headquarters.

### **3. What is the role of the State Distributing Agency in response to disasters?**

The State Distributing Agency receives and responds to requests for food assistance from non-profit disaster relief agencies such as the American Red Cross or the Salvation Army, and forwards pertinent information to the FNS Regional Office. This information includes projections of the number of persons and meals expected to be served, length of time, types of commodities needed, etc. The State Distributing Agency also coordinates the release of commodities from its warehouses or from recipient agency inventories to meet the immediate need for food in the area affected by the disaster or situation of distress.

#### **4. What preparations should a State Distributing Agency make to respond to a request for disaster relief?**

The State Distributing Agency should become familiar with the Emergency Operations Plan in its state. Often, another individual within the State Agency is the liaison with the state's Emergency Operations Center. In addition to being familiar with the people in that communication chain, the State Distributing Agency should maintain emergency phone numbers of individuals with physical control of commodity inventories to expedite their release and use in the event of a disaster or situation of distress.

The State Distributing Agency should also incorporate instructions about the required protocols regarding the use of commodities for disaster feeding when conducting program training for its recipient agencies.

#### **5. When is prior FNS approval required for the State Distributing Agency to release commodities for disaster feeding purposes?**

FNS Headquarters approval is required for the distribution of commodities to households in both disasters and situations of distress. When FNS approves issuance of disaster food stamps, assurances must be made that individual households do not simultaneously receive food stamps and commodities for home preparation.

Should a situation of distress arise from circumstances other than a natural catastrophe, FNS Headquarters approval is also required to use commodities for congregate feeding.

#### **6. What commodities may be used for disaster feeding purposes?**

Commodities purchased for all FNS feeding programs may be used for a disaster or situation of distress. The most practical commodities to use for congregate feeding are those provided for the National School Lunch Program simply because the packaging, such as #10 cans, is designed for mass feeding. Commodities packaged in smaller sizes, such as #300 cans, are more appropriate for household distribution. Small cans may complicate congregate feeding efforts, but they may be utilized.

#### **7. What is congregate feeding and where are such feeding sites set up?**

Congregate feeding involves feeding groups of people often staying in locally designated shelters. Congregate feeding may occur in schools, churches, community centers, and soup kitchens. It also involves meal service from mobile kitchens set up by non-profit disaster response organizations, such as the American Red Cross, in designated service centers in the immediate disaster area.

**8. May disaster relief workers be served meals containing commodity foods? Is there any limit as to their numbers or length of time they may be served?**

Once congregate feeding is approved for an area, disaster relief workers may also be served if such persons:

- 1) have a reasonable need to be in the area, i.e. providing disaster relief; and
- 2) they are unable to reasonably procure food on their own, because:
  - a. the disaster has destroyed or disrupted normal commercial food channels; or,
  - b. they are unable to reasonably and conveniently leave their duties to access food through whatever normal commercial channels may be available.

There are no limits to the number of relief workers who may be served, and they may receive meals as long as the congregate feeding is in effect.

**9. Does USDA replace commodities used in a disaster or distress situation? How does use of “single inventory” management by schools affect commodity replacement?**

FNS will replace commodities used under a disaster declaration if the State Distributing Agency provides appropriate documentation with the commodity replacement request.

When a school that uses “single inventory” management (commingling of commercial and commodity foods) requests commodity replacement, the State Distributing Agency must provide documentation to FNS that:

- 1) Confirms that the foods used for the disaster were donated commodities, or
- 2) Confirms the receipt of the same types of commodities (through consignee receipts or other records) by the school, during the year preceding the onset of the disaster feeding, as those foods used for the disaster feeding.

**Funds are limited** to replace commodities used in a situation of distress. Therefore, it is very important that the State Distributing Agency notify the FNS Regional Office as soon as possible of its intention to request commodity replacement. The FNS Regional Office will notify FNS Headquarters of the request for replacement, which in turn will determine whether sufficient funds are available.

**10. Does USDA reimburse the State Distributing Agency for any expenses incurred transporting commodities for emergency feeding?**

USDA will reimburse transportation expenses of a State Distributing Agency that arranges shipment of commodities to other States (interstate movement). The State Distributing Agency must bear any costs incurred in transporting commodities within its own borders.

**11. Does USDA reimburse the State Distributing Agency or Recipient Agencies for processing fees paid for further processed commodities used for disaster feeding?**

No. USDA may reimburse only the value of the raw commodity contained in further processed items. The State Distributing Agency should consider this when evaluating whether it should release any further processed items in its control for disaster feeding purposes.

**12. What is the Rapid Food Response System? How does a State Distributing Agency receive assistance through the Rapid Food Response System?**

The Rapid Food Response System (RFRS) is designed to ensure the availability of a more nutritionally balanced offering of commodities to support congregate feeding during disasters. The RFRS provides selected commodities that are normally available from the inventories of seven large States. These commodities are consistent with Federal nutrition guidance based on the Dietary Guidelines for Americans and the Food Guide Pyramid.

Should a disaster occur, the State Distributing Agency would first use its own inventory of commodities. If it is unable to meet all requests for commodity assistance, it should seek additional commodities through the FNS Regional Office from neighboring states.

To activate the Rapid Food Response System, the State Distributing Agency should contact the FNS Regional Office, which will approve such requests. The Regional Office will contact its participating Rapid Food Response State to obtain the needed commodities, and work with the State Distributing Agency requesting the commodities to transport them to the disaster area.

**Attachment 2 Food Distribution Programs Disaster Flowchart (1 of 2)**

Event	Type of Assistance	Application Channels	Application Contents to extent possible – (initially in writing if possible) otherwise confirmed in writing in timely manner	Approval Authority	Notification Requirement	Duration
<b>DISASTER Presidential Declaration</b> that, in U.S.: 1. catastrophe of natural or other causes, warrants assistance under the Stafford Act  2. any other instance warrants Federal assistance to lessen or avert threat of catastrophe	Congregate Meal Service (central site(s) serving prepared meals	Disaster Organization (DO) applies to State Distributing Agency (SDA)	1. Description of disaster 2. Number of persons needing meals 3. Anticipated duration of feeding 4. Quantity / types of food needed 5. Number / location of sites (as established)	SDA may approve	SDA informs FNSRO of approval with copy of application(s) within 24 hours	SDA may initially determine and extend duration
	Household Distribution (central site(s) distributing USDA commodities to households for them to prepare meals at home)	Disaster Organization (DO) applies to State Distributing Agency (SDA), which if it approves, seeks (via FNSRO) FNSHQ approval.	1. Description of disaster 2. Identify specific geographic area(s) 3. Number of households affected 4. Why household distribution warranted 5. Anticipated duration of feeding 6. Method(s) of distribution available 7. Quantity / types of food needed 8. Assurance households won't get commodities and disaster food stamps 9. System to prevent dual participation 10. Number / location of sites (as established)	FNSHQ must approve	N/A	FNSHQ will initially determine and may extend duration
<b>SITUATION OF DISTRESS No Presidential Declaration, but:</b>  1. if <b>natural</b> catastrophe, in judgment of <b>SDA</b> warrants use of USDA commodities for congregating feeding, or  2. if <b>non-natural event</b> , in judgment of <b>FNS</b> warrants use of USDA commodities for congregating feeding or household distribution	Congregate Meal Service (central site(s) serving prepared meals)	Disaster Organization (DO) applies to State Distributing Agency (SDA)	1. Description of situation of distress 2. Number of persons needing meals 3. Anticipated duration of feeding 4. Quantity / types of food needed 5. Number / location of sites (as established)	SDA may approve for up to <b>30 days</b> if situation is a <b>natural event</b>	SDA informs FNSRO of approval with copy of application(s) within 24 hours and if it extends duration of initial approval up to 30 day limit	Extension beyond 30 days requires FNSHQ approval
				If not a natural event, SDA must seek (via FNSRO) FNSHQ approval	N/A	FNSHQ will initially determine and may extend duration
	Household Distribution (central site(s) distributing USDA commodities to households for them to prepare meals at home)	Disaster Organization (DO) applies to State Distributing Agency (SDA), which if it approves, seeks (via FNSRO) FNSHQ approval.	1. Description of situation of distress 2. Identify specific geographic area(s) 3. Number of households affected 4. Why household distribution warranted 5. Anticipated duration of feeding 6. Quantity / types of food needed 7. Assurance households won't get commodities and disaster food stamps 8. System to prevent dual participation 9. Number / location of sites (as established)	FNSHQ must approve.	N/A	

## Attachment 2 Food Distribution Programs Disaster Flowchart (2 of 2)

Foods to Use	Collection of written household information by DO to include:	Record keeping Requirement	Replacement	Reporting Requirement
Foods from ALL FNS Programs	N/A	(1) Applications/ approvals to be kept according to requirements of Part 250	All foods used from State and local inventories replaced	Within 45 days of end of assistance SDA files form FNS-292 (Report of Coupon Issuance and Commodity Distribution for Disaster Relief) with FNSRO
	1. Name of applicant 2. Address 3. Number in household 4. Signed statement that household is/will not: A. lying about need B. sell/trade commodities C. residing in a shelter serving meals D. getting disaster food stamps	See (1) above; Also DO must forward household information to SDA; SDA may allow DO to keep these records if DO is an agency of State govt.	State must request replacement within 30 days of end of assistance  FNS may waive 30 day deadline with justification	
Foods from ALL FNS Programs	N/A	See (1) above	State must request replacement of foods used from State and local inventories within 30 days of end of assistance  FNS will replace such foods only to the extent that funding is available  Replacement cannot therefore be guaranteed	
	N/A	See (1) above		
	1. Name of applicant 2. Address 3. Number in household 4. Signed statement that household is/will not: A. lying about need B. sell/trade commodities C. residing in a shelter serving meals D. getting disaster food stamps	See (1) above; Also DO must forward household information to SDA; SDA may allow DO to keep these records if DO is an agency of State govt.		

### **Attachment 3 The FEMA Federal Response Plan**

*The Department of Homeland Security is currently updating the Federal Response Plan to a National Response Plan to ensure that all levels of government work together. When they issue changes, this section will be updated accordingly.*

## **THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL RESPONSE PLAN**

### **1. The Federal Response Plan—Overview**

The Federal Response Plan is a signed agreement among twenty-seven Federal departments and agencies, and the American Red Cross, which clarifies the role of each within the framework of overall delivery of Federal assistance in an emergency response operation. The Federal Response Plan applies to a major disaster or emergency as defined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, which includes a natural catastrophe; fire, flood, or explosion regardless of cause; or any other occasion or instance for which the President determines that Federal assistance is needed to supplement State and local efforts and capabilities.

The Department of Homeland Security, through the Federal Emergency Management Agency (FEMA), implements the Federal Response Plan when there is an event requiring Federal assistance under a Presidential declaration of a major disaster or emergency, or in anticipation of a significant event likely to result in a need for Federal assistance. The Federal Response Plan outlines how the Federal government implements the Stafford Act to assist State and local governments when a major disaster or emergency overwhelms their ability to respond effectively to save lives; protect public health, safety, and property; and restore their communities. It describes the mechanisms by which the Federal government mobilizes resources and conducts activities to augment State and local response and recovery efforts.

FEMA is the lead agency for the Federal Response Plan and is responsible for:

- Coordinating delivery of supplemental Federal assistance;
- Deploying interagency emergency teams;
- Opening facilities to serve affected individuals, support operations, and working with the media;
- Managing information;
- Issuing mission assignments; and
- Tracking resources.

## **2. Setting the Federal Response Plan in Motion**

If the Governor of a State determines a need for Federal disaster assistance, a request is addressed to the President. When the President determines, based on the Federal Emergency Management Agency's evaluation and recommendation, that a State requires Federal assistance, a formal disaster declaration is made and Federal agencies implement the Federal Response Plan to meet the State's requests for assistance.

FEMA recommends, and the President appoints, a Federal Coordinating Officer for each State that is affected by a disaster. The FEMA Federal Coordinating Officer and the State response team set up a Disaster Field Office near the disaster scene. Federal and State personnel work together to carry out response and recovery functions.

The Federal Response Plan organizes the activities to be performed in support of the relief effort by each Emergency Support Function (ESF), such as transportation, communication, food distribution, etc. Each ESF is assigned to a primary agency which is supported by other agencies. The FEMA Federal Coordinating Officer works with the State Coordinating Officer to identify unmet needs and evolving support requirements, as well as to coordinate these requirements with the ESFs.

The primary agency serves as a Federal executive agent under the FEMA Federal Coordinating Officer to accomplish the ESF mission. When an Emergency Support Function is activated, the primary agency has operational responsibility for:

- Providing an appropriate level of staffing for operations at FEMA Headquarters, the FEMA Regional Operations Center, Disaster Field Office, and the Disaster Recovery Center (as needed);
- Activating and sub-tasking support agencies;
- Managing mission assignments and coordinating tasks with support agencies, as well as appropriate State agencies;
- Supporting and keeping other ESFs and organizational elements informed of operational priorities and activities;
- Executing contracts and procuring goods and services as needed; and
- Ensuring financial and property accountability for ESF activities.

Each support agency for the Emergency Support Function has operational responsibility for:

- Supporting the primary agency mission assignments; and
- Providing status and resource information to the primary agency.

The Emergency Response Team is the principal interagency group that supports the FEMA Federal Coordinating Officer in coordinating the overall Federal disaster operation. The

Emergency Response Team ensures that Federal resources are made available to meet State requirements identified by the State Coordinating Officer.

The size and composition of the Emergency Response Team can range from FEMA regional office staff to an interagency team having representation from all ESF primary and support agencies undertaking full response and recovery activities. The Emergency Response Team organizational structure consists of the FEMA Federal Coordinating Officer's support staff and four main sections: Operations, Information and Planning, Logistics, and Administration.

The Operations Section coordinates the delivery of Federal assistance and manages the activities of various emergency teams. The section is composed of four branches: Operations Support, Human Services, Infrastructure Support, and Emergency Services.

### **3. Roles, Assignments, and Structure Under the Federal Response Plan**

#### **Emergency Support Functions (ESF) Designations**

The 12 current ESFs, organized functionally under the branches to provide a coordinated approach and ensure seamless delivery of assistance to the affected States include:

- ESF-1 — Transportation
- ESF-2 — Communications
- ESF-3 — Public Works and Engineering
- ESF-4 — Firefighting
- ESF-5 — Information and Planning
- ESF-6 — Mass Care
- ESF-7 — Resource Support
- ESF-8 — Health and Medical Services
- ESF-9 — Urban Search and Rescue
- ESF-10 — Hazardous Materials
- ESF-11 — Food
- ESF-12 — Energy

USDA/Food & Nutrition Service is the primary agency for ESF-11, (Food). (AMS, FSA, FSIS, FS assist FNS as necessary.)

Support agencies for ESF-11 include:

- American Red Cross,
- Department of Defense,
- Department of Homeland Security,
- Environmental Protection Agency,
- General Services Administration and
- Health and Human Services.

All agencies identified in support roles help ensure that all Federal sources of food are included, logistical support is provided and that the food is not a health hazard. In addition to the ESF-11 function, FNS is one of the agencies/departments that provide support to the American Red Cross, the primary agency for ESF-6, Mass Care.

#### **4. FNS Headquarters Role in the Federal Response Plan**

The Food Security Act of 1985 (Public Law 99-198) requires the Secretary of Agriculture to establish a disaster task force to assist States in implementing and operating various disaster food programs. The FNS Disaster Task Force operates under the general direction of the Administrator. It coordinates FNS' overall response to disasters and emergencies, and assumes primary responsibility for all ESF-11 activity.

The FNS Task Force consists of the Administrator, Associate Administrators, Disaster Coordinator, Deputy Administrator for Communications and Governmental Affairs, representatives from the food stamp and special nutrition programs, and representatives from regional office(s) affected by the disaster. The FNS Disaster Task Force expedites approval of disaster assistance requests and policy clarifications. It also maintains liaison with the Department of Homeland Security.

The Department of Homeland Security Secretary's Operations Center will notify the USDA Emergency Coordinator that the Federal Response Plan is being implemented. USDA then will notify the FNS Disaster Coordinator. The FNS Disaster Coordinator will notify appropriate FNS Headquarters officials, the Regional Office(s), and Emergency Support Function (ESF) support agencies. The FNS Disaster Coordinator will attend any meeting of the Catastrophic Disaster Response Group and be available as necessary for the duration of the initial response period.

Because all support agencies will be represented on the Emergency Support Team (EST) at the Department of Homeland Security Headquarters and the Emergency Response Team at the FEMA Disaster Field Office, the FNS Disaster Coordinator will maintain 24-hour contact with those representatives as necessary at those locations for the duration of the emergency response period.

Support agency representatives will have sufficient knowledge of the capabilities and resources of their agencies, with appropriate authorities to commit resources to the response effort.

#### **5. FNS Regional Office Role in the Federal Response Plan**

The FNS Regional Disaster Coordinator is the point of contact within the Regional Office and will represent the ESF in its dealings with FEMA's Federal Coordinating Officer. Dependent upon the severity of the emergency, the regional level of the FNS Disaster Task Force will have a representative(s) present or available for duty at the FEMA Disaster Field Office on a 24-hour basis for the duration of the emergency response period. They

will be the point of contact for all State initiated requests for food assistance. Under the general coordination of the FNS Disaster Task Force, ESF-11 will:

- Coordinate with State, local, and voluntary organizations to determine food assistance needs;
- Obtain appropriate food supplies;
- Arrange for transportation of those food supplies to designated staging areas within the disaster area; and
- Authorize disaster food stamp assistance.

At all times, requests for food, including types, amounts, and destination locations, will be processed through the FNS Disaster Task Force.

During the first 72 hours following a notification of a major disaster or emergency, ESF-11 will be staffed at FNS Headquarters and affected Regional Offices around the clock. The FNS Regional Disaster Coordinator should get a general overview of the current situation in order to relay the information to the appropriate FNS Regional Administrator and FNS National Disaster Coordinator for informational purposes or for action. After this period of time, the Regional Administrator of FNS and the FNS Regional Disaster Coordinator, who is the official point of contact within the FNS Disaster Task Force for any matter pertaining to ESF-11, will assess continuation of 24-hour operations.

Actions undertaken by ESF-11 will be guided by and coordinated with State and local disaster officials. FNS, under its own authority, may make USDA-donated foods available, through State Distributing Agencies, to relief organizations for use in preparing congregate meals. In certain circumstances, the Administrator of FNS may also authorize the distribution of food for household consumption. Upon State request, FNS may also approve emergency issuance of food stamps initially for up to 30 days with an option to extend, to qualifying households within the affected area. Alternatively, FNS may make emergency food supplies available for take-home consumption in lieu of food stamps for qualifying households.

Priority will be given to moving critical supplies of food into areas of acute need and then to areas of moderate need. ESF-11, upon notification that commercial channels of trade have been restored, may authorize the use of disaster food stamp program procedures. In addition to the direct functions performed, ESF-11 will also coordinate with, and support as appropriate, agencies responsible for mass feeding under ESF-6, Mass Care.

## **6. FEMA Regional Operations Centers**

FEMA has 10 Regional offices, each with a Regional Operations Center. When a major disaster occurs (or before, for predictable events), the FEMA regional Director activates the Regional Operations Center. The FEMA Regional Operations Center is the initial coordination point for Federal response efforts. FEMA Regional Operations Center staff coordinates Federal response efforts until an Emergency Response Team is established in the field and the FEMA Federal Coordinating Officer assumes coordination

responsibilities. The FEMA Regional Operations Center is a clearinghouse for information and data from the State Emergency Operations Center to the Federal agencies in support of the disaster response and recovery operations.

The Emergency Response Advance Team is the first Federal group that responds to an incident in the field. FEMA Regional Operations Center staff coordinates deployment of this response team to field locations. The team assesses damage, provides information, develops situation reports (Information and Planning, lead: Department of Homeland Security); and issues initial mission assignments.

In a catastrophic disaster or high-visibility incident that would demand the full capabilities of FEMA, a National Emergency Response Team may deploy to the affected area. The National Emergency Response Team comprises staff from FEMA Headquarters and Regional offices as well as other Federal agencies. The FEMA Regional Director activates the FEMA Regional Operations Center based on the level of response required.

The FEMA Regional Operations Center may be activated before the anticipated disaster has occurred (e.g., a hurricane has not yet reached the U.S. coastline), so no damage assessment has been completed. The FNS Regional Disaster Coordinator should attempt to get a general overview of the current situation in order to relay the information to the appropriate FNS Regional Administrator and FNS National Disaster Coordinator for informational purposes or for action. Upon arrival at the FEMA Regional Operations Center, the FNS Regional Disaster Coordinator or designated ESF-11 representative should contact the following ESFs for information, as appropriate:

ESF 1 – Transportation: Status and location of routes to areas of feeding sites  
ESF 6 – Mass Care: An assessment from Mass Care should include the following and be reported back to the FNS Regional Office:

- Number of people impacted by the disaster
- Number of open shelters;
- Number of people in the shelters;
- Number of meals served each day in the shelters (breakdown by breakfast, lunches, and/or dinners);
- Location of the shelters; and
- Names of the relief organizations providing meals.

#### FNS Reporting from the FEMA Regional Operations Center to FNS Regional Disaster Coordinator - Daily

1. Situation Reports
2. Daily desk log (notes on contacts, issues, questions not necessary for FEMA Situation Report)
3. Time and attendance log
4. Mission Assignments; amendments
5. Information from Mass Care

### Reporting from FNS Regional Disaster Coordinator to FNS National Disaster Coordinator - Daily

1. Situation Reports
2. Mission Assignments
3. Media Articles
4. Congregate Feeding/Household Distribution Needs (from Regional Food Distribution Program)
5. Available Commodity Resources (from Regional Food Distribution Program)
6. Emergency Food Stamps Status – (from Regional Food Stamp Program)

## **7. FEMA Disaster Field Office Operations**

FEMA's Disaster Field Office is the primary field location in each affected State for the coordination of Federal response operations. It is also FEMA's long term Command Center during the recovery phase process. Depending on the circumstances, there could be more than one FEMA Disaster Field Office during a single disaster. The FEMA Federal Coordinating Officer and the State Coordinating Officer work together at the FEMA Disaster Field Office, along with Federal agency regional representatives and State and local liaison officers, when possible.

Once the FEMA Disaster Field Office is ready for use, the Advance Emergency Response Team and/or National Emergency Response Team, is augmented by FEMA and other Federal agency staff to form a full Emergency Response Team. The Emergency Response Team is the principal interagency group supporting the FEMA Federal Coordinating Officer in coordinating the overall Federal disaster operation. It can range in size and composition from FEMA regional office staff conducting recovery operations to an interagency team with representatives from all ESF primary and supporting agencies working on full response and recovery activities.

## **8. Federal Response Plan Mission Assignments**

Mission assignments are issued in anticipation of, or in response to, a Presidential declaration of a major disaster or emergency. A mission assignment is a work order issued by FEMA to another Federal agency that directs completion by that agency of a specific task. Mission assignments are issued in response to a State's request for Federal assistance to meet unmet emergency needs or to meet an internal Federal request to support overall Field Operations Support.

There are three types of mission assignments:

- 1) Technical Assistance
- 2) Direct Federal Assistance, and
- 3) Federal Operations Support.

Under a Technical Assistance Mission Assignment, expertise given to the State is 100% Federally funded. In a situation where State and local agencies are overwhelmed, then

Direct Federal Assistance, such as goods and services, are provided to the State and is subject to a 75/25 cost-share. In a Federal Operations Support Mission Assignment, 100% Federal funds provide for any resources to support FEMA and Federal agency operations.

## **9. Federal Response Plan Roles:**

### State Role:

- Request Technical Assistance and/or Direct Federal Assistance
- Approve Mission Assignments for Technical Assistance and Direct Federal Assistance
- Review/approve Mission Assignments work done
- Reimburse FEMA for State cost share

### Primary Agency Role:

- Estimate Mission Assignment work costs/timelines
- Activate staff and support agencies
- Subtask agencies (as appropriate)
- Contract with vendors
- Execute and monitor Mission Assignment work
- Bill FEMA for costs
- Review support agency bills
- Provide closeout data

### Support Agency Role:

- Assist primary agency to scope mission
- Perform Mission Assignment work
- Submit bill to the primary agency for review
- Submit bill to FEMA

### FEMA Role:

- Activate the Emergency Support Functions
- Evaluate Requests for Assistance
- Authorize Mission Assignments
- Track/monitor Mission Assignments
- Reimburse ESF agencies
- Closeout Mission Assignments

## **10. Federal Response Plan Mission Assignment Process:**

1. Initial Operations – Pre-Disaster Needs Identification
  - State assesses available resources
  - State projects needed resources

2. Identifying Needs and Requesting Federal Assistance
  - Preliminary Damage Assessment conducted
  - Disaster declared
  - Written request for Federal assistance submitted by State
3. Mission Assignment Issuance
  - FEMA reviews and determines whether to authorize assistance
  - Request for Assistance prepared and required approvals obtained
  - Funds obligated
  - ESF activation
  - ESF provide cost/time estimates
  - State approves Technical Assistance/Direct Federal Assistance
4. Mission Assignment Execution by ESF
  - Trigger agency emergency activation procedures
  - Designate staff/organizations for disaster team assignments
  - Assess need for potential MAs
  - Decide need to sub-task support agencies or contract with vendors to procure goods and services
  - Estimate costs and timelines
  - Tracks expenditures
  - Verifies receipts and pays bills
  - Notify FEMA of excess funds or need for additional funds
5. Mission Assignment Tracking and Monitoring
  - Begins after Mission Assignment is issued and continues until close out
  - Complete Mission Assignment Tracking Report
  - Provide information through Situation Reports (SITREPS) and daily planning meetings
  - Monitor work of sub-tasked agencies
6. ESF Deactivation
  - Complete work assignments
  - ESF lead coordinates with Federal Coordinating Officer and Operations Chief for release date from Disaster Field Office
7. Mission Assignment Billing and Reimbursement
  - ESF documents costs for personnel, equipment, etc. and prepares bill(s) for submission to the Disaster Finance Center
  - If support agency was sub-tasked by ESF lead agency, the support agency prepares bill (which is reviewed by the lead agency) and submits it to FEMA. FEMA reviews bill and pays bill to support agency.

8. Mission Assignment Close Out

- ESF notifies FEMA of completion/termination of Mission Assignment
- Mission Assignments remain open until any unused funds are de-obligated and/or final bill is paid

## Attachment 4 Regulations: 7CFR 250.3, 250.42, 250.44

## §250.3

shall not apply to distribution to households on all or part of an Indian reservation which is participating in the Food Distribution Program under part 253 and part 254 of this chapter. The distributing agency shall provide guidance to subdistributing agencies and recipient agencies on all aspects of program operations.

(c) *Personnel.* Each distributing agency shall provide adequate personnel, to administer the program in accordance with this part.

## §250.3 Definitions.

*Charitable institutions* means:

(a) A nonpenal, noneducational public (Federal, State or local) institution,

(b) A nonprofit, tax exempt, private hospital, or

(c) Any other nonprofit, noneducational, tax exempt private institution, including hospitals and facilities caring for needy infants and children, organized to provide charitable or public welfare services in the same place without marked changes and, at the Department's option, approved by a public welfare agency as meeting a definite need in the community by administering to needy persons, and provides a meal service on a regular basis. Charitable institutions include any institution defined as "service institution"; "nonresidential child care institution"; or "school" which is not a commodity school or does not participate in a child nutrition program. For purposes of this paragraph, tax exempt shall mean exempt from income tax under the Internal Revenue Code, as amended, and a charitable institution shall be considered "noneducational" even though educational courses are given, where such courses are incidental to the primary purpose of the charitable institution.

*Child nutrition program* means the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program for Children, or the Child Care Food Program (parts 210, 220, 225, and 226, respectively of this chapter).

*Commodities* means foods donated, or available for donation, by the Department under any of the legislation referred to in this part (see "Donated Foods").

## 7 CFR Ch. II (1-1-04 Edition)

*Commodity school* means a school that does not participate in the National School Lunch Program under part 210 of this chapter but which operates a nonprofit school food service under agreement with the State educational agency or FNSRO as provided for under part 210 of this chapter and receives donated foods, or donated foods and cash or services of a value of up to 5 cents per lunch in lieu of donated foods under part 240 of this chapter for processing and handling of the donated foods.

*Contract value of the donated foods* means the price assigned by the Department to a donated food which shall reflect the Department's current acquisition price, transportation and, if applicable, processing costs related to the food.

*Contracting agency* means the distributing agency, subdistributing agency, or recipient agency which enters into a processing contract.

*Department* means the United States Department of Agriculture or the Commodity Credit Corporation, whichever is the donor under the pertinent legislation.

*Disaster* means (a) Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) (Stafford Act) to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby; or

(b) Any other occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

## Food and Nutrition Service, USDA

## § 250.3

*Disaster organizations* means organizations authorized by appropriate Federal or State officials to assist disaster victims.

*Disaster victims* means persons who, because of acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

*Discount system* means a system whereby a recipient agency purchases end products directly from a processor at an established wholesale price minus the contract value of the donated foods contained in the end products.

*Distributing agency* means a State, Federal or private agency, or Indian Tribal Organization (ITO) which enters into an agreement with the Department for the distribution of donated foods to eligible recipient agencies and recipients and the Food and Nutrition Service of the Department when it accepts title to commodities from the Commodity Credit Corporation (CCC) for distribution to eligible recipient agencies pursuant to the National Commodity Processing System. A distributing agency may also be a recipient agency.

*Distributor* means a commercial food purveyor or handler who is independent of a processor and both sells and bills for the end products delivered to recipient agencies.

*Donated foods* means foods donated, or available for donation, by the Department under any of the legislation referred to in this part (see "Commodities").

*End product* means a product containing any amount of donated foods which have been processed.

*Federal acceptance service* means the acceptance service provided by:

(a) The applicable grading branches of the Department's Agricultural Marketing Service (AMS).

(b) The Department's Federal Grain Inspection Service, and

(c) The National Marine Fisheries Service of the U.S. Department of Commerce.

*Fee-for-service* means the price by pound or by case representing a processor's cost of ingredients (other than donated foods), labor, packaging, overhead, and other costs incurred in the

conversion of the donated food into the specified end product.

*Fiscal year* means the period of 12 months beginning October 1 of any calendar year and ending September 30 of the following year.

*FNS* means the Food and Nutrition Service of the Department of Agriculture.

*FNSRO* means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department of Agriculture.

*Food service management company* means a commercial enterprise or a nonprofit organization which is or may be contracted with by a recipient agency to manage any aspect of its food service in accordance with § 250.12(d) of this part or in accordance with part 210, 220, 225, or 226 of this chapter.

*Household* means a group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit and for whom food is customarily purchased and prepared in common. It also means a single individual living alone.

*In-kind replacement* means replacement of lost donated foods with a quantity of the same foods of U.S. origin that are of equal or better quality than the lost foods and that are of at least equal monetary value to the Department's cost of replacing the lost foods.

*Multi-State processor* means:

(a) A processor which has entered into a processing contract with contracting agencies in more than one State, or

(b) A processor which has entered into a processing contract with one or more contracting agencies located in a State other than the one in which either the processor's plant or business office is located.

*Needy persons* means:

(a) Persons provided service by charitable institutions, who, because of their economic status, are in need of food assistance.

(b) All the members of a household who are certified as in need of food assistance, and

(c) Disaster victims.

*Nonprofit school food service* means all food service operations conducted by the school food authority principally

## §250.3

## 7 CFR Ch. II (1-1-04 Edition)

for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

*Nonprofit summer camps for children* means nonprofit camps which do not participate in the Summer Food Service Program for Children authorized under section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761), and in which, during the months of May through September, meal services are conducted for children of high school grade and under.

*Nonresidential child or adult care institution* means any child or adult care institution (as defined in part 226 of this chapter) which participates in the Child and Adult Care Food Program authorized under section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766).

*Nutrition program for the elderly* means a project conducted by a recipient of a grant or contract under title III or title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a).

*Offer-and-acceptance system* means a procedure whereby a school food authority is given the opportunity to order only the amounts and varieties of donated foods it desires for its school lunch program on the basis of advance notification by the distributing agency.

*Performance supply and surety bond* means a written instrument issued by a surety company which guarantees performance and supply of end products by a processor under the terms of a processing contract.

*Processing* means:

(a) The conversion of a donated food or donated foods into a different end product or

(b) The repackaging of a donated food or donated foods.

*Processor* means any commercial facility which processes or repackages donated foods. However, commercial enterprises which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract are exempt under this definition. Notwithstanding this definition, a recipient agency which prepares products or meals containing donated foods for more than one recipient agency under

more than one contract in the same facility or prepares products or meals for any one recipient agency off-site shall not be a processor if the recipient agency preparing products or meals provides: (1) accountability for any donated foods received from another recipient agency consistent with §250.16 of this part and (2) any funds received as payment for preparing products or meals shall be deposited in the nonprofit meal account of the recipient agency preparing products or meals.

*Program* means the Food Distribution Program.

*Recipient agencies* means nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, disaster organizations, school food authorities, schools, non-residential child care institutions, service institutions, and welfare agencies receiving foods for their own use or for distribution to eligible recipients.

*Recipients* means the needy persons receiving commodities for household consumption.

*Refund* means (a) a credit or check issued to a distributor in an amount equal to the contract value of donated foods contained in an end product sold by the distributor to a recipient agency at a discounted price and (b) a check issued to a recipient agency in an amount equal to the contract value of donated foods contained in an end product sold to the recipient agency under a refund system.

*Refund application* means an application by a recipient agency in any form acceptable to the processor which certifies purchase of end products and requests a refund of the contract value of the donated foods contained in the end products purchased.

*Refund system* means a system whereby a recipient agency purchases a processor's end products and receives from the processor a payment equivalent to the contract value of the donated foods contained in the end products.

*School* means (a) An educational unit of high school grade or under, recognized as part of the educational system in the State and operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under"

## Food and Nutrition Service, USDA

## § 250.3

includes classes of preprimary grade when recognized as part of the education system of the States;

(b) Any public or nonprofit private classes of preprimary grade when they are conducted in those schools defined in paragraph (a) of this definition having classes of primary or of higher grade;

(c) Any public or nonprofit private residential child care institution, or distinct part of such institution, which operates principally for the care of children, and if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government, *except for* residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes. The term "residential child care institutions" includes, but is not limited to: homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more; or

(d) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

*School food authority* means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a nonprofit school food service therein or otherwise approved by FNS to operate the NSLP.

*School year* means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

*Secretary* means the Secretary of Agriculture.

*Section 4(a)* means section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note). Section 4(a) authorizes the pur-

chase of foods for distribution to maintain the traditional level of assistance for food assistance programs as are authorized by law, including institutions, supplemental feeding programs, disaster areas, summer camps for children, the Trust Territory of the Pacific Islands, and Indians whenever a tribal organization requests distribution of federally-donated foods under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)).

*Section 6* means section 6 of the National School Lunch Act, as amended (42 U.S.C. 1755). Section 6 authorizes the purchase of foods for distribution to schools and institutions participating in child nutrition programs under the National School Lunch Act and specifies the level of assistance which is to be provided.

*Section 14* means section 14 of the National School Lunch Act, as amended (42 U.S.C. 1762a). Section 14 authorizes the purchase of foods for distribution to maintain the annually programmed level of assistance for programs carried on under the National School Lunch Act, the Child Nutrition Act of 1966, and title III of the Older Americans Act of 1965.

*Section 32* means section 32 of Pub. L. 74-320, as amended (7 U.S.C. 612c). Section 32 authorizes the Department to purchase nonbasic perishable foods available under surplus-removal operations, for the purpose of encouraging the domestic consumption of such foods by diverting them from the normal channels of trade or commerce.

*Section 311* means section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a). Section 311 authorizes the purchase of commodities for nutrition programs for the elderly.

*Section 416* means section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431). Section 416 authorizes the Department to donate basic nonperishable foods acquired through Federal price-support operations for use by needy persons, for use in nonprofit school lunch programs and nonprofit summer camps for children, and for use in charitable institutions to the extent that needy persons are served.

*Section 709* means section 709 of the Food and Agricultural Act of 1965, as amended (7 U.S.C. 1446a-1). Section 709

## § 250.3

authorizes the purchase of adequate supplies of dairy products to meet the requirements of schools, domestic relief distribution, and other programs authorized by law when the stocks of the Commodity Credit Corporation are insufficient to meet those requirements.

*Service institutions* means camps or sponsors (as those terms are defined in part 225 of this chapter) which participate in the Summer Food Service program authorized under section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761).

*Similar replacement* means replacement of lost donated foods with a quantity of similar foods of U.S. origin of the same types as those normally donated by the Department and of at least equal monetary value to the Department's cost of replacing the lost foods. Such replacement shall be subject to the approval of the FNSRO.

*Situation of distress* means (a) A hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other natural catastrophe not declared by the President to be a disaster, but which, in the judgment of the distributing agency, warrants the use of USDA commodities for congregate feeding; and

(b) Any other situation not declared by the President to be a disaster, but which, in the judgment of FNS, warrants the use of USDA commodities for congregate feeding or household distribution.

*State and United States* means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

*State Agency on Aging* means:

(a) The State agency that has been designated by the Governor and approved by the United States Department of Health and Human Services (DHHS) to administer nutrition programs for the elderly under title III of the Older Americans Act of 1965, as amended or

(b) The Indian tribal organization which has been approved by DHHS to

## 7 CFR Ch. II (1-1-04 Edition)

administer nutrition programs for the elderly under title VI of such act.

*Storage facility* means an operation that provides warehousing services, or provides both warehousing and delivery services.

*Students in home economics* means students in regular classes wherein they are taught general home economics including food preparation, cooking, serving, nutrition, food purchasing, child care and health.

*Subdistributing agency* means an agency performing one or more distribution functions for a distributing agency other than, or in addition to, functions normally performed by common carriers or warehousemen. A subdistributing agency may also be a recipient agency. State and local agencies, and Indian Tribal Organizations administering the Emergency Food Assistance Program, the Food Distribution Program on Indian Reservations, or the Commodity Supplemental Food Program, are subdistributing agencies subject to all provisions relative to subdistributing agencies contained in this part, unless specifically exempt under part 251, part 253, part 254, or part 247 of this chapter.

*Substituted food* means domestically produced food that is purchased or manufactured by a processor and is substituted for donated food.

*Substitution* means:

(a) The replacement of donated foods with like quantities of domestically produced commercial foods of the same generic identity and of equal or better quality (i.e. cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.).

(b) In the case of donated nonfat dry milk, substitution as defined under (a) of this definition or replacement with an equivalent amount, based on milk solids content, of domestically produced concentrated skim milk.

(c) A processor can substitute commercial product for donated commodity, as described in paragraph (a) of this section, without restrictions under full substitution. The processor must return to the contracting agency, in finished end products, the same number of pounds of commodity that the

## Food and Nutrition Service, USDA

## § 250.43

adjustment, any remaining funds (up to the level of assistance specified in paragraph (b)(2)(i) of this section) will be disbursed so that each State will receive an equal amount on a per meal basis.

(4) To be eligible for reimbursement by FNS, claims for cash payment for meals served by nutrition programs for the elderly shall be submitted by State Agencies on Aging and Indian Tribal Organizations no later than 90 days following the close of the Federal fiscal quarter for which payment is claimed.

(5) The State Agency on Aging desiring to receive funds under this paragraph shall enter into a written agreement with FNS pursuant to §250.12(a) to:

(i) Promptly and equitably disburse any cash it receives in lieu of donated foods to nutrition programs for the elderly after consideration of the needs of such programs and the availability of other resources, including any donated foods available under paragraph (b) of this section;

(ii) Establish such procedures as may be necessary to ensure that the cash disbursements are used by nutrition programs for the elderly solely for the purpose of purchasing U.S. agricultural commodities and other foods of U.S. origin for their food service operations;

(iii) Maintain and retain for 3 years from the close of the Federal fiscal year to which they pertain complete and accurate records of:

(A) All amounts received and disbursed under paragraph (c) of this section and

(B) The manner in which consideration was given to the needs and resources as required by paragraph (c)(5)(i) of this section; and

(iv) Permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

(6) Funds provided under paragraph (c) of this section shall be subject to the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

(d) *Types of donated foods authorized for donation.* Nutrition programs for the elderly are eligible to receive donated foods under section 416, section

32, section 311, section 709, and section 14.

[53 FR 20426, June 3, 1988, as amended at 62 FR 53729, Oct. 16, 1997]

## §250.43 Disaster food assistance.

(a) *Organizational eligibility.* In instances in which the President has declared a disaster and FNS has determined that, as a result of the disaster, low-income households are unable to purchase adequate amounts of nutritious food, disaster organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to disaster victims. Applications submitted by disaster organizations to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the record-keeping requirements of this part.

(b) *Congregate meal service—(1) Approval authority and duration.* Distributing agencies may review and approve applications submitted by disaster organizations for the donation of foods for use in preparing congregate meals for disaster victims. Distributing agencies also shall determine the length of such donations, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate. Following approval of a request for donated foods, the distributing agency shall make appropriate donated foods available from any source within the State to the disaster organization(s) and within 24 hours of approving the application shall report the information listed in paragraph (b)(2) of this section to the appropriate FNSRO.

(2) *Applications.* (1) Disaster organizations wishing to receive donated foods for use in preparing meals for disaster victims shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

## § 250.43

(A) Description of disaster situation;  
(B) Number of people requiring meals;

(C) Period of time for which commodities are requested; and

(D) Quantity and types of food needed for congregate meal service.

(ii) In addition, organizations shall report to the distributing agency the number and location of sites providing congregate meal service as such sites are established.

(c) *Household distribution*—(1) *Approval authority and duration.* In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, the distributing agency shall submit applications requesting approval for such distributions to the appropriate FNSRO for submission to FNS for prior approval. FNS will determine the length of time such donations will be made, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate.

(2) *Applications.* (i) Disaster organizations wishing to receive and distribute donated foods to households shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

(A) Description of disaster situation;  
(B) Identification of the specific area(s) included in the request;

(C) Number of households affected;  
(D) Explanation as to why the distribution of commodities to households is warranted;

(E) Anticipated distribution period;  
(F) Method(s) of distribution available;

(G) Quantity and types of food needed for distribution;

(H) Statement of assurance that simultaneous disaster food stamp benefits and commodity assistance will not be provided to individual households; and

(I) Description of the system that will be implemented to prevent dual participation.

(ii) In addition, information on the number and location of sites where commodities are to be distributed shall

## 7 CFR Ch. II (1–1–04 Edition)

be provided to the distributing agency as such sites are established.

(3) *Collection of household information.* In instances in which the issuance of disaster food stamp benefits has been approved, any entity (i.e., Federal, State, or local) distributing donated foods to households shall, at a minimum, collect the information listed below in a format prescribed by the distributing agency. Such information shall be forwarded to the distributing agency and maintained by the distributing agency in accordance with the recordkeeping requirements contained in this part, except that such information may, at the discretion of the distributing agency, be maintained by the organization distributing commodities if such organization is an agency of the State government.

(i) Name of household member applying for assistance;

(ii) Address;

(iii) Number of household members; and

(iv) Statement signed by the household certifying that the household:

(A) Is in need of food assistance;

(B) Understands that misrepresentation of need, and the sale or exchange of the donated food, are prohibited and could result in a fine, imprisonment, or both;

(C) Is not residing in a shelter which provides food assistance; and

(D) Is not receiving disaster food stamp benefits.

(d) *Quantities and value of donated foods.* The distributing agency shall make donated foods available to approved disaster organizations based on the caseload factor information provided by the disaster organizations.

(e) *Types of donated foods authorized for donation.* Disaster organizations providing food assistance under this Section are eligible to receive donated foods under section 416, section 32, section 709, section 4(a), and sections 412 and 413 of the Stafford Act.

(f) *Summary report.* Within 45 days following termination of the disaster assistance, the distributing agency shall provide a summary report to the appropriate FNSRO using Form FNS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief.

## Food and Nutrition Service, USDA

## § 250.44

(g) *Replacement.* Distributing agencies which decide to seek replacement of foods used from State and/or local inventories for disaster assistance shall file their request in writing to the FNSRO within 30 days following termination of the assistance. FNS will replace such foods in instances when a request for replacement is submitted within the required 30 days or sufficient justification exists to waive the 30-day requirement.

[62 FR 8365, Feb. 25, 1997]

**§ 250.44 Food assistance in situations of distress.**

(a) *Organizational eligibility.* In situations of distress in which needs for food assistance cannot be met under other provisions of this Part, organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to victims of the situation of distress. Applications submitted to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the record-keeping requirements of this Part.

(b) *Congregate meal service.* (1) *Approval authority and duration.* Distributing agencies may review and approve applications for the donation of foods for use in preparing congregate meals for a period not to exceed 30 days for victims of situations of distress in instances in which the need for such assistance meets the conditions of paragraph (a) of the definition of *situation of distress* in §250.3. Following approval of a request, distributing agencies shall report the information listed in paragraph (b)(2) of this section to the appropriate FNSRO within 24 hours. In instances when the distributing agency extends the originally approved distribution period from less than 30 days to the 30-day limit, it shall notify the FNSRO of such extensions. Distributing agencies shall request approval from FNS, via the appropriate FNSRO,

for donations to exceed 30 days. Upon determining that there is a need for the donation of foods for congregate meals in instances other than those that meet the criteria in paragraph (a) of the definition of *situation of distress* in §250.3, the distributing agency shall forward applications to the appropriate FNSRO for submission to FNS for prior approval. FNS will determine the duration of such donations, taking into consideration the magnitude of the situation. Determinations as to the length of donations may be revised as developing circumstances dictate.

(2) *Applications.* (i) Organizations wishing to receive donated foods for use in preparing meals shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

(A) Description of the situation of distress;

(B) Number of people requiring meals and congregate meal service period; and

(C) Quantity and types of food needed.

(ii) In addition, information on the number and location of sites providing meals shall be submitted to the distributing agency as such sites are established.

(c) *Household distribution.*—(1) *Approval authority and duration.* In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, the distributing agency shall submit applications requesting approval for such distributions to the appropriate FNSRO for submission to FNS for approval. FNS will determine the duration of the donations, taking into consideration the magnitude of the situation. Such determinations may be revised as developing circumstances dictate.

(2) *Applications.* (i) Organizations wishing to receive and distribute donated foods to households shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

(A) Description of the situation of distress;

## § 250.45

(B) Explanation as to why the distribution of commodities to households is warranted;

(C) Identification of the specific area(s) included in the request;

(D) Anticipated distribution period;

(E) Number of households expected to participate;

(F) Quantity and types of food needed for distribution;

(G) Statement of assurance that simultaneous disaster food stamp benefits and commodity assistance will not be provided to individual households; and

(H) Description of the system that will be implemented to prevent dual participation.

(ii) In addition, information on the number and location of sites shall be provided to the distributing agency as such sites are established.

(3) *Collection of household information.* In a format prescribed by the distributing agency, any entity (i.e., Federal, State, or local) distributing donated foods to households in an area where the issuance of disaster food stamp benefits has been approved shall, at a minimum, collect the information listed below. Such information shall be forwarded to the distributing agency and maintained by the distributing agency in accordance with the record-keeping requirements contained in this part, except that such information may, at the discretion of the distributing agency, be maintained by the organization distributing commodities if such organization is an agency of the State government.

(i) Name of household member applying for assistance;

(ii) Address;

(iii) Number of household members; and

(iv) Statement signed by the household certifying that the household:

(A) Is in need of food assistance;

(B) Understands that misrepresentation of need, and the sale or exchange of the donated food are prohibited and could result in a fine, imprisonment, or both;

(C) Is not residing in a shelter which provides food assistance; and

(D) Is not receiving disaster food stamp benefits.

## 7 CFR Ch. II (1-1-04 Edition)

(d) *Quantities and value of donated foods.* The distributing agency shall make donated foods available to eligible organizations based on the caseload factor information provided by the organizations.

(e) *Types of donated foods authorized for donation.* Organizations providing food assistance in situations of distress are eligible to receive donated foods under section 416, section 32, section 709, and section 4(a).

(f) *Summary report.* Within 45 days following termination of the assistance, the distributing agency shall provide a summary report to the appropriate FNSRO using Form FNS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief.

(g) *Replacement.* Distributing agencies which decide to seek replacement of foods used from State and/or local inventories for situations of distress shall file their request in writing to the FNSRO within 30 days following termination of the assistance. FNS will replace such foods to the extent that foods are available.

[62 FR 8366, Feb. 25, 1997]

## § 250.45 Commodity Supplemental Food Program.

(a) *Distribution.* The distributing agency shall distribute donated foods to the State agency which is designated by the State to administer the Commodity Supplemental Food Program for that State and which has entered into a written agreement with the Department for the administration of that program in accordance with 7 CFR part 247, the regulations for that program. The State agency administering the Commodity Supplemental Food Program shall distribute donated foods to local agencies for use by eligible recipients in accordance with the provisions of 7 CFR part 247 and with the provisions of this part, and may enter into an agreement with the distributing agency for use of the distributing agency's facilities for distribution.

(b) *Quantities of donated foods.* Distribution of donated foods to the designated State agencies for the Commodity Supplemental Food Program shall be made on the basis of each